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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. ID-2004 64023

AMY NICOLE KNIGHT
859 Celebration Drive
Milpitas, CA 95035

FIRST AMENDED ACCUSATION

Physical Therapist License No. PT 23448

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about August 31, 1998, the Physical Therapy Board of California issued Physical Therapist License Number PT 23448 to AMY NICOLE KNIGHT ("Respondent" or "Knight"). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2007, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code¹ unless otherwise indicated.

4. Section 2609 of the Code provides that the Board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in the Physical Therapy Practice Act. Section 2660 describes the Board's authority to discipline its licensees for unprofessional conduct.

5. Section 2655 of the Code states:

"As used in this article:

(a) 'Physical therapist' means a physical therapist licensed by the board.

(b) 'Physical therapist assistant' means a person who meets the qualifications stated in Section 2655.3 and who is approved by the board to assist in the provision of physical therapy under the supervision of a physical therapist who shall be responsible for the extent, kind, and quality of the services provided by the physical therapist assistant.

(c) 'Physical therapist assistant' and 'physical therapy assistant' shall be deemed identical and interchangeable.

6. Section 2655.7 of the Code states:

"Notwithstanding Section 2630, a physical therapist assistant may assist in the provision of physical therapy service provided the assistance is rendered under the supervision of a physical therapist licensed by the board."

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1. All statutory references are to the Business and Professions Code unless otherwise specified.

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7. Section 2655.92 of the Code states:

“The board may adopt regulations as reasonably necessary to carry out the purposes of this article. The board shall adopt a regulation formulating a definition of the term "adequate supervision" as used in this article.”

8. Section 1398.44 of Title 16 of the California Code of Regulations states, in pertinent part:

“1398.44. Adequate Supervision Defined.

“A licensed physical therapist shall at all times be responsible for all physical therapy services provided by the physical therapist assistant. The supervising physical therapist has continuing responsibility to follow the progress of each patient, provide direct care to the patient and to assure that the physical therapist assistant does not function autonomously. Adequate supervision shall include all of the following:

(d) The supervising physical therapist shall reevaluate the patient as previously determined, or more often if necessary, and modify the treatment, goals and plan as needed. The reevaluation shall include treatment to the patient by the supervising physical therapist. The reevaluation shall be documented and signed by the supervising physical therapist in the patient's record and shall reflect the patient's progress toward the treatment goals and when the next reevaluation shall be performed.

(f) Within seven (7) days of the care being provided by the physical therapist assistant, the supervising physical therapist shall review, cosign and date all documentation by the physical therapist assistant or conduct a weekly case conference and document it in the patient record. Cosigning by the supervising

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1 physical therapist indicates that the supervising physical therapist has read the
2 documentation, and unless the supervising physical therapist indicates otherwise,
3 he or she is in agreement with the contents of the documentation.

4 (g) There shall be a regularly scheduled and documented case conference
5 between the supervising physical therapist and physical therapist assistant
6 regarding the patient. The frequency of the conferences is to be determined by the
7 supervising physical therapist based on the needs of the patient, the supervisory
8 needs of the physical therapist assistant and shall be at least every thirty calendar
9 days.

10”
11 9. Section 2661.5 (a) of the Code states:

12 “In any order issued in resolution of a disciplinary proceeding before the
13 board, the board may request the administrative law judge to direct any licensee
14 found guilty of unprofessional conduct to pay to the board a sum not to exceed the
15 actual and reasonable costs of the investigation and prosecution of the case”.

16 EVENTS, ACTS OR OMISSIONS

17 10. On or about April 21, 2003, the Physical Therapy Board of California
18 received a complaint from John Nativio, Physical Therapy Advisor, Blue Shield of California,
19 alleging that documentation submitted by Washington Outpatient Rehabilitation Center to Blue
20 Shield of California, which included billing for physical therapy services provided by a Physical
21 Therapy Assistant (“PTA”), lacked the required co-signatures of a Supervising Physical
22 Therapist. The Division of Investigation (“DOI”) thereafter conducted an investigation on behalf
23 of the Board.

24 11. As part of the investigation, DOI investigators interviewed respondent
25 Knight, who indicated as follows:

26 A. Knight said she provided physical therapy to patients requiring
27 orthopedic care, usually treating the lower back. She also provided physical therapy to patients
28 recovering from hip surgery. Knight stated that as a physical therapist (“PT”), she completed the

1 initial evaluation and assessment on a patient's first visit. She might provide treatment
2 depending on the patient. Treatment included exercises, stretches, education, heat, ice,
3 ultrasound, electrical stimulation, pool, home program and soft tissue work. Approximately once
4 a month, Knight re-assessed the patients and completed an evaluation form. Knight stated that
5 she had been employed at the clinic longer than any other PT. She provided supervision to
6 assistants and aides who provided exercise heat, ice and ultrasound treatments. Knight stated
7 that aides did not provide education, neither did they perform hands-on treatments. Knight stated
8 that appointments were made for new patients under her schedule. After assessments, Knight
9 might decide to refer the patient to the PTA who did not carry a caseload as heavy as those of the
10 PTs. Knight stated it was not the standard for a PTA to do pre-interviews of the patients and they
11 did not complete the pre-interview forms. A physical therapy assistant could complete progress
12 reports but could not assess patients. Knight stated she might re-assess the patient once a month
13 or at every visit depending on the patient's condition. Knight said she always worked with the
14 aides and assistants as a team. They always discussed their patients with her.

15 12. Physical Therapy Board consultants and investigators subsequently
16 conducted a records audit at Washington Outpatient Rehabilitation Center. Charts for Patients
17 identified as Patients 5, 6, 10, 12, 13 and 14 were reviewed².

18 13. A review of Patient 6's record revealed that Knight performed and charted
19 the initial Spine Evaluation and treatment plan.. Patient 6's record also revealed a Flow Chart
20 Treatment Note dated 01/13/03 signed by Nelson M. Tumanda, PTA, with no co-signature by a
21 Supervising PT. The progress summary dated 01/23/03 was also signed by Tumanda with no co-
22 signature by a Supervising PT.

23 14. A review of Patient 10's record revealed that Flow Chart Treatment Notes
24 dated 03/18/03, 03/20/03, 03/25/03, 03/27/03, 04/01/03, 04/03/03, 04/08/03, 04/10/03, 04/22/03,
25 and 04/24/03 were signed by Michael Kwong, PTA with no co-signature by a Supervising PT.

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28 2. Names of patients were redacted from the physical therapy records and replaced with a
letter or number as an identifier.

1 15. A review of Patient 12's record revealed that on 04/16/01, Knight signed a
2 Upper Extremity Evaluation Form. The Flow Chart Treatment Notes of May 1, 6, 9, 14, 16, 20,
3 22, 24, 2002, were recorded and signed by Tumanda with no co-signature by a supervising
4 physical therapist. Further, two Physical Therapy Progress Reports (05/28/02, 05/15/01), were
5 performed, charted and signed by Tumanda, not the supervising physical therapist. Only a
6 physical therapist should do a progress report.

7 16. A review of Patient 13's record revealed that three Physical Therapy
8 Progress Reports (10/14/02, 08/07/02, 06/24/02) were done and signed by Tumanda, with a co-
9 signature by Knight as the supervising physical therapist. However, only a physical therapist
10 should do a progress report. The record further revealed that on June 14, 17, 19, 21, 28, 2002,
11 July 2, 23, 24, 26, 29, 2002, and August 2, 2002, the Flow Chart Treatment Notes were recorded
12 and signed by Tumanda with no co-signature by a supervising physical therapist or any
13 documentation of case conferences on the patient. Knight was present on many of Patient 13's
14 patient visits.

15 17. A review of Patient 14's record revealed a Physical Therapy Progress
16 Report) (08/15/02) signed by Tumanda with a co-signature by Knight as the supervising physical
17 therapist. However, a physical therapist should do a progress report. The record also indicates
18 that the initial Lower Extremity Report(12/03/02), and five Physical Therapy Progress Reports
19 (05/29/03, 02/28/03, 01/03/03, 02/15/02, 12/06/01) were charted and signed by "James," aka
20 Tumanda, with no co-signature by the Supervising PT or any documented case conferences on
21 the patient. In addition, almost all of the treatments were performed by "James," aka Tumanda.
22 The treatment dates on which Tumanda charted treatment provided to Patient 14 on the Flow
23 Chart Treatment Notes without having a co-signature from his supervising physical therapist
24 included numerous times between 11/06/01 and 04/05/02, inclusive.

25 CAUSES FOR DISCIPLINARY ACTION

26 18. Respondent is subject to disciplinary action based upon the events, acts, or
27 omissions, set forth hereinabove, pursuant to Business and Professions Code section 2660 for
28 violating section 1398.44 of Title 16 of the California Code of Regulations, including subdivision

(d), and/or (f), and/or (g), in that:

A. Respondent, as a supervising physical therapist, failed to prevent the physical therapist assistant from performing Physical Therapy Progress Reports, which should only be performed by a physical therapist [section 1398.44 (d) of Title 16 of the California Code of Regulations]; and/or

B. Respondent, as the supervising physical therapist, failed to, within seven (7) days of the care being provided by the physical therapist assistant, review, cosign and date all documentation by the physical therapist assistant; and/or conduct a weekly case conference and document it in the patient record [section 1398.44 (f) of Title 16 of the California Code of Regulations]; and/or

C. Respondent, as the supervising physical therapist, failed to conduct a regularly scheduled and documented case conference between the supervising physical therapist and physical therapist assistant regarding the patient [section 1398.44 (g) of Title 16 of the California Code of Regulations].

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending Physical Therapist License Number PT 23448,
issued to AMY NICOLE KNIGHT;

2. Ordering AMY NICOLE KNIGHT to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: September 25, 2006

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant